IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 25230 of 1995

Between:

Smt. Sukhavasi V Samrajyam W/o. Late Satyanarayana garu
R/o. Kavuru, Cherukupalli Mandal, Guntur District.

..... PETITIONER

AND

1 The District Collector, Guntur.
2 The Land Acquisition Officer (RDO), Tenali.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records relating and in connection with draft declaration published U/s. 6 of the Land Acquisition Act dt. 22.9.95 issued by the Respondent No.2 and quash the same as illegal, unconstitutional and violative of principles of natural justice

Counsel for the Petitioner: MR.T.JAGDISH

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

ORDER:

This writ petition is filed seeking to quash the draft declaration published under Section 6 of the Land Acquisition Act dt. 22-9-1995 issued by 2nd respondent as illegal and violative of principles of natural justice.

The main grievance of the petitioner is that a notification under Section 4(1) of the Land Acquisition Act was published on 14-8-1994 purporting to acquire Ac 4.42 cents of the petitioner's land. The notification under Section 4(1) stated that delegation to Revenue Divisional Officer by Collector was for the purpose of conducting the enquiry under section 5-A of the Act. Eventhough no notice on the petitioner was served calling for objections, yet she filed objections under section 5-A on 25-8-1994. It is however, the case before the court that though the objections have not been determined, and no enquiry under section 5-A has yet been made, on 26-8-1994 the Revenue Divisional Officer declared in the village by way of tom-tom that acquisition proceedings have been completed and possession of the land would be taken over within a week. At that stage, petitioner filed a writ petition No. 15554 of 1994 and pursuant to the orders therein dt. 30-8-1994, petitioner filed objections on 13-9-1994. Later, without there being any intimation or without being heard the petitioner, the Revenue Divisional Officer, proceeded with the enquiry and published the draft declaration on 22-9-1995 under Section 6 of the Land Acquisition Act contrary to law and is trying to dispossess the petitioner from the land. Hence, the writ petition.

The respondents through the counter affidavit state that in pursuance of the orders of

this Court in WP No.15554 of 1994, notice under Section 5-A of the Land Acquisition Act was issued on 13-9-1994 to the petitioner and notices were published on 16-9-1994 and the petitioner and other interested persons were invited to file objections. The petitioner filed her objections before the Land Acquisition Officer on 13-9-1994. The petitioner was also requested to appear before the Revenue Divisional Officer, Tenali, on 17-10-1994 to adduce evidence in support of her objections. But the petitioner did not appear before the Land Acquisition Officer on 17-10-1994. Thus, after considering the objections filed by the petitioner, the Land Acquisition Officer rejected the same and completed the enquiry on 17-10-1994 and thereafter after getting approval of the draft declaration, they published the same in Guntur District Gazette on 11-9-1995. The Telugu version of Draft Declaration was also published on 27-9-1995. The substance of the Draft Declaration was also published in the locality on 14-10-1995. Hence, the writ petition is devoid of merits and is liable to be dismissed.

Heard learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

Having heard the counsel on either side and on perusal of the material available on record, it has to be observed that though the objections have been filed on behalf of the petitioner before the Land Acquisition Officer, yet the same were not considered by the authorities and they have chosen to issue the draft declaration under Section 6 of the Land Acquisition Act. Eventhough a statement is made in the counter that petitioner has filed objections on several dates, yet it has been stated that the petitioner has not appeared before the Land Acquisition Officer on 17-10-1994 which goes to show that the petitioner had no opportunity what so ever to submit her case before the Land Acquisition Officer and hence it has to be held that the draft declaration under Section 6 of the Act has been issued without hearing the petitioner, which amounts to violation of principles of natural justice and also not in accordance with the provisions of the Land Acquisition Act.

Under the above circumstances, the draft declaration issued under Section 6 of the Act is quashed and remitted the matter back to the respondents-authorities for considering the objections filed by the petitioner in accordance with law and to pass appropriate orders within a period of three months from the date of receipt of a copy of this order. At the request of the learned counsel for the petitioner, liberty is granted to the petitioner to raise all the objections that are raised herein before the Land

Acquisition Officer.

Subject to the aforementioned observations, the writ petition is allowed. The interim direction granted by this Court on 06-11-1995 in WPMP No.31078 of 1995 regarding dispossession of the petitioner from the land should continue till final orders are passed by the Land Acquisition Officer. No costs.

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T. MEENA KUMARI, J

Dt. 09/6/2005

Kvrk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Thursday the Ninth day of June, Two thousand and five.

HON'BLE SMT JUSTICE T.MEENA KUMARI

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09TH JUNE 2005

To

1 The District Collector, Guntur.
2 The Land Acquisition Officer (RDO), Tenali.

3 Two CCs to GP for Land Acquisition, High Court Buildings, Hyderabad(OUT)

4 Two CD copies.